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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Cole Williams	Art Unit	:1733
Serial No.	: 09/978,441	Examiner	: Jeff H. Aftergut
File Date	: October 15, 2001		
The Invention	: "Waterproof, Breathable Articles of Apparel"		

DECLARATION

Cole Williams hereby declares as follows:

1. Declarant is the named inventor in the above noted Application.
2. Declarant has carefully reviewed the communication from the Patent Office dated July 7, 2003, issued in connection with application U.S. Serial No. 09/978,441. The references cited by the Examiner have been carefully studied and the Examiner's comments have been duly considered. As a result of this careful study, and for the reasons presently to be discussed, Declarant is convinced that the inventions disclosed in Serial No. 09/978,441, as well as the inventions now claimed in application Serial No. 09/978,441 are neither described in, nor suggested by the prior art of record, nor would they be obvious to one skilled in the art in view of the prior art relied upon by the Examiner.
3. In the Office Action dated July 7, 2003, the Examiner states in pertinent part:
" The applicant argues that neither one of Williams '226 or PCT 569 suggested a bladder adapted to enclose one portion of the user's extremity such as a user's foot and a second portion adapted to sealingly engage another portion of the

user's extremity as, for example, the skin of the lower leg portion of the user. While neither one of the references taught the same, the incorporation of the bladder in the sandwich construction as defined by either one of PCT '480 or Town (where the length of the bladder was less than the length of the exterior layer but greater than the length of the interiorly disposed layer) would have resulted in a bladder which was capable of not only enclosing one portion of the user's extremity but also of sealingly engaging another portion of the user's extremity by contact with the skin of the user in the sealing zone. While the references to Williams '226 or PCT '569 do not expressly state that the bladder has a surface which is glaze-like, the bladder is made of the same materials as applicant (sic. 'applicant's) and the bladder is of a similar thickness to that claims (sic. 'claimed') One would have expected that like materials would have had like properties and thus it is reasonable to assert that the bladder of Williams '226 or PCT '569 would have had the same properties as defined in the claims." (emphasis added)

4. Declarant is the inventor of the inventions disclosed in Williams '226 and PCT '569 and is quite familiar with these disclosures. Due to this familiarity, Declarant respectfully disagrees with the Examiner's conclusion that "the bladder of Williams '226 or PCT '569 would have the same properties as defined in the claims", i.e. the critically important, "glaze-like surface".

5. On page 11 of the specification of Serial No. 09/978,441, the heating and compression of the precursor assembly, which comprises the first adhesive coated sock 22, the bladder 12 and the second adhesive coated sock 24, is there described. It is there pointed out that “.... due to the unique design of the article of apparel of the invention, during the temperature, pressure step, portion 16 of bladder 12, that is the portion of the bladder extending above margin 34 of inner sock 22, is urged against the smooth surfaces 36 of mandrel 30 (figure 4). As the adhesive 27, which was previously deposited on bladder 12, melts and is pressed against the mandrel, it will melt to form a smooth surface that exhibits exceptional sealing capabilities.”

6. While the Examiner is correct in his statement that the bladder is made of the same material, the processing of the precursor assembly of the Williams '226 and PCT '567 does not involve urging the bladder against the smooth surfaces of the mandrel to produce the critical feature of the present invention, namely the glaze-like surface that provides the exceptional sealing capabilities. This is because during heating and compression of the prior art precursor, the bladder of the precursor does not extend above the margin of the inner sock so as to provide the novel “sealing cuff” of the present invention as specifically claimed.

7. For the forgoing reasons it is Declarant's considered judgment that the inventions disclosed in Serial No. 09/978,441, as well as the inventions now claimed in application Serial No. 09/978,441 are neither described in, nor

suggested by the prior art of record, nor would they be obvious to one skilled in the art in view of this prior art. Clearly, a combination of the prior art references, as proposed by the Examiner, would not produce the article of the invention as claimed.

8. All statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated DEC. 5, 2003

By

Cole Williams
Cole Williams